

DUPLICATE ORIGINAL

**SERVICE AGREEMENT BETWEEN CITY OF SUNNYVALE
AND RANDSTAD US, LP, FOR TEMPORARY PERSONNEL
PLACEMENT SERVICES**

THIS AGREEMENT, dated June 3, 2002, is by and between the City of Sunnyvale, a municipal corporation ("CITY"), and Randstad US, LP, a Delaware Limited Partnership ("AGENCY").

WHEREAS, on February 15, 2002, CITY issued Request for Proposals No. F0202-42 for temporary personnel placement services; and

WHEREAS, AGENCY has submitted a proposal in response to the Request for Proposals; and

WHEREAS, CITY has determined that the proposal submitted by AGENCY is the best and most advantageous for CITY and that AGENCY possesses the skill and expertise to perform the required services;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1. Services

- (a) There are attached and incorporated by this reference the following exhibits:
 - (1) Exhibit "A", consisting of Pages 2 through 13, inclusive, of that certain document entitled "Request for Proposals No. F0202-42". The exhibit consists of the I. Notice Inviting Proposals, II. Instructions to Proposers, III. General Specifications, IV. Detailed Specifications, V. Terms and Conditions, and IV. Instructions for Completion of Proposer Response Pages which was submitted to all prospective proposers.
 - (2) Exhibit "B", consisting of Pages 14 through 23, inclusive, of that certain document entitled "Proposer Response Pages" and its attachments, presenting the revised response to "Request for Proposals No. F0202-42 " pursuant to negotiations between CITY and AGENCY.
- (b) AGENCY shall perform the services described in Pages 4 through 9, inclusive, of Exhibit "A" III. General Specifications and IV. Detailed Specifications, excepting paragraph C.
- (c) The performance of such services shall be governed by Pages 10 and 11, inclusive, of Exhibit "A" Terms and Conditions.
- (d) AGENCY shall ensure that services provided are in compliance with Exhibit "C" City of Sunnyvale Temporary Employment Policy.

2. Contract Term

The term of the Agreement shall be three years, beginning May 1, 2002, unless otherwise terminated. The Agreement may be extended for two additional two-year periods at the option of CITY. CITY shall give AGENCY thirty (30) days advance notice should it decide to exercise its option to extend the Agreement.

3. Temporary Personnel Salary Ranges, AGENCY Markup Rates, and Fees

CITY agrees to pay AGENCY as full compensation for the services rendered pursuant to this Agreement, the amounts set forth in Exhibit "D". AGENCY shall submit all invoices for services to CITY in the manner specified in Exhibit "D".

4. Conflict of Interest

No officer or employee of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement, AGENCY shall not accept an obligation which is inconsistent or incompatible with AGENCY's obligations under this Agreement.

5. Confidential Information

AGENCY shall maintain in confidence and at no time use, except to the extent required to perform its obligations hereunder, any and all proprietary or confidential information of CITY of which AGENCY may become aware in the performance of its services.

6. Compliance with Laws

- (a) AGENCY shall strictly adhere to all state and federal laws with respect to discrimination in employment and shall not discriminate against any individual on the basis of race, color, religion, gender, sexual orientation, marital status, national origin, age or disability.
- (b) AGENCY shall comply with all federal, state and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement.

7. Independent Contractor

AGENCY is acting as an independent contractor in performing the work required by this Agreement and is not an agent, servant or employee of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and AGENCY. AGENCY is responsible for paying all required state and federal taxes.

8. Indemnity

AGENCY shall indemnify, defend and hold harmless CITY and its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses, including attorney fees, arising out of the performance of the services described herein, caused in whole or in part by any negligent act or omission of AGENCY, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of CITY.

9. Insurance

AGENCY shall take out and maintain during the life of this Agreement policies of insurance as specified in Exhibit "A", attached and incorporated by reference except that Section V. Terms and Conditions, paragraph G(5)(b) is replaced by the following:

City shall be named as additional named insured with respect to the work to be performed under the Service Agreement, excluding employment practices liability insurance.

AGENCY shall provide all insurance certificates and/or endorsements as specified.

10. CITY Representative

The Director of Human Resources, as City Manager's authorized representative, shall represent CITY in all matters pertaining to the services to be rendered under this Agreement. All requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

11. AGENCY Representative

Tuesday Agah shall represent AGENCY in all matters pertaining to the services and materials to be rendered under this Agreement. All requirements of AGENCY pertaining to the services to be rendered under this Agreement shall be coordinated through the AGENCY representative.

12. Notices

All notices required by the Agreement shall be in writing, and shall be personally delivered or sent by first class mail, postage prepaid or by commercial courier, addressed as follows:

To CITY: Director of Human Resources
 CITY OF SUNNYVALE
 P. O. Box 3707
 Sunnyvale, CA 94088-3707

To AGENCY: Tuesday W. Agah, Senior Market Manager, Southeast Bay
Randstad US, LP
39300 Civic Center Drive, Suite 380
Fremont, CA 94538

With a Copy To: Randstad US, LP
Attn: Legal Department
2015 S. Park Place
Atlanta, GA 30339

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, written confirmation of a telephone conversation or an original of a facsimile transmission must be sent by first class mail or commercial carrier, or hand delivered.

Each party may change its address or designated representative by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three days after mailing, unless such date is a date on which there is no mail service. In that event communication is deemed to occur on the next mail service day.

13. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

14. Termination

If AGENCY defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to AGENCY. If CITY fails to pay AGENCY, AGENCY at its option may terminate this Agreement if the failure is not remedied by CITY within thirty (30) days from the date payment is due.

Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY also shall have the right to terminate this Agreement for any reason upon ten (10) days' written notice to AGENCY. In the event of such termination, AGENCY shall be compensated for services performed through the date of receipt of notification from CITY to terminate. AGENCY shall present CITY with any work product completed at that point in time.

15. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

16. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. This Agreement shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

CITY OF SUNNYVALE ("CITY")

By Susan Kitchens
City Clerk 6-3-02

By Robert J. LaSala
City Manager

APPROVED AS TO FORM:

RANDSTAD US, LP ("AGENCY")

By Joan A. Bryan
City Attorney

By Stan J. Whitel
VP & General Counsel 5/10/02
Title and Date